

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

JUXTACOMM TECHNOLOGIES, INC.,

Plaintiff,

v.

Civil Action No. 2:07-CV-359 LED

**ASCENTIAL SOFTWARE
CORPORATION, et al.,**

Defendants.

**JOINT STIPULATION REGARDING DEFENDANTS' INEQUITABLE CONDUCT
COUNTERCLAIMS AND AFFIRMATIVE DEFENSES**

Pursuant to this Joint Stipulation regarding Defendants' inequitable conduct counterclaims and affirmative defenses, JuxtaComm Technologies Inc. ("JuxtaComm"), Ascential Software Corporation ("Ascential"), International Business Machines Corporation ("IBM" and collectively with Ascential, the "IBM Defendants"), and Microsoft Corporation ("Microsoft") agree to the following:

1. Microsoft and the IBM Defendants withdraw with prejudice their existing affirmative defenses of inequitable conduct (Microsoft's Answer and Counterclaim to JuxtaComm's Second Amended Complaint for Patent Infringement (Docket No. 353), Eighth Affirmative Defense; IBM Defendants' Answer to Plaintiff's Second Amended Complaint and Counterclaim (Docket No. 349), Twelfth Affirmative Defense).

2. Microsoft and the IBM Defendants withdraw with prejudice their existing counterclaims for declaratory judgment of unenforceability due to inequitable conduct (Microsoft's Answer and Counterclaim to JuxtaComm's Second Amended Complaint for Patent Infringement (Docket No. 353), Counterclaim Count III: Declaratory Relief Regarding

Enforceability; IBM Defendants' Answer to Plaintiff's Second Amended Complaint and Counterclaim (Docket No. 349), Second Counterclaim for Declaratory Judgment of Unenforceability).

3. JuxtaComm withdraws its Motion to Strike or, Alternatively, for Partial Summary Judgment on Defendants' Claims of Inequitable Conduct (Docket No. 654).

4. Nothing in this stipulation will bar or otherwise prevent Microsoft or the IBM Defendants from raising in any future litigation concerning U.S. Pat. No. 6,195,662 any claim or defense of inequitable conduct based on evidence of inequitable conduct not presently known to Microsoft or the IBM Defendants.

4. Nothing in this stipulation will bar or otherwise prevent Microsoft or the IBM Defendants from raising in this or any future patent infringement litigation claims or defenses of inequitable conduct that may occur during the reexamination of U.S. Pat. No. 6,195,662.

6. Each party will bear its own costs and fees in connection with Microsoft's and IBM's withdrawn inequitable conduct defenses and counterclaims.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 3, 2009, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Kelly C. Hunsaker

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